

GREGORY J. ROCKWELL, ESQ. (SBN 67305)

grockwell@bjg.com

JILL P. SAZAMA, ESQ. (SBN 214215)

jsazama@bjg.com

BOORNAZIAN, JENSEN & GARTHE

A Professional Corporation/File #26525

555 12th Street, Suite 1800

Oakland, CA 94607

Telephone: (510) 834-4350

Facsimile: (510) 839-1897

Attorneys for Defendant

COUNTY OF ALAMEDA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GIANNI PASSAKOS,

Plaintiff,

vs.

COUNTY OF ALAMEDA; and DOES 1-50,

Defendants.

Case No.: C10-04062 CW

**DECLARATION AND EX PARTE
APPLICATION TO CONTINUE CASE
MANAGEMENT CONFERENCE AND
ORDER**

I, Gregory J. Rockwell, Esq., as attorney of record for defendant COUNTY OF ALAMEDA, hereby request that the Court continue the initial case management conference in the above action, currently set for **December 21, 2010** at 2:00 p.m. to **March 22, 2011**, or to such later date that is available on the Court's calendar. The reasons for this request are set forth below.

In the past 30 days I have made several unsuccessful attempts to reach attorney Jeremy Cloyd of the Law Offices of Sanford M. Cipinko, attorneys for plaintiff herein, in order to discuss discovery issues which I anticipate will arise and may affect the progress of this action and the preparation of a joint case management conference. When I have called the law firm, I have reached a voicemail system, through which I was able to leave voice mail messages for Mr. Cloyd.

1 This morning I called again, and my call was answered by a receptionist, who informed me that
2 Mr. Cloyd was no longer with the Cipinko law firm. When I explained that I needed to speak to
3 the attorney who has taken over the handling of this lawsuit, I was advised that the representation
4 of the plaintiff was in the process of being transferred to another law firm and that there were no
5 attorneys in the Cipinko law firm today who could speak to me. I was referred to Oakland
6 attorney John E. Hill and was told that he would be substituting into the case for plaintiff.

7 I called Mr. Hill's office and was advised that he was in a mediation and would not be in
8 the office today. I then spoke to a gentleman by the name of Jose Duran, who identified himself as
9 Mr. Hill's paralegal. Mr. Duran advised me that Mr. Hill has met with the plaintiff, but no
10 substitution of attorneys has been signed. He also advised me that San Francisco attorney David
11 Helbraun might take over representation of the plaintiff in this action. I advised Mr. Duran that,
12 under the circumstances, I intended to make an ex parte application to the Court to continue the
13 case management conference.

14 After speaking to Mr. Duran, I called attorney David Helbraun, who advised me that he has
15 met with the plaintiff, but that he has not made a decision as to whether he will agree to represent
16 the plaintiff in this action. I advised Mr. Helbraun of my plan to request a continuance of the case
17 management conference and asked if he had any objection to a continuance, and he said that he did
18 not, so long as I made it clear to the Court that he has not yet agreed to represent the plaintiff as
19 yet.

20 This lawsuit arises from a physical altercation between the plaintiff and deputy sheriffs
21 which occurred at the Santa Rita jail. The plaintiff has been charged with a violation California
22 Penal Code § 148 as a result of that altercation. That criminal action is presently pending and has
23 not been set for trial. I have been advised by the District Attorney's Office that the attorneys for
24 the plaintiff in the criminal action have recently filed a motion for an order permitting discovery of
25 the personnel records of the deputies involved in the altercation. That motion is set to be heard on
26 January 18, 2011. No trial date will be set until after that motion has been heard and ruled upon.
27 Based upon my experience in similar cases, I anticipate that I will not be able to take the

1 deposition of the plaintiff in this action until after the criminal case has been resolved.

2 I declare under penalty of perjury that the foregoing is true and correct.

3 Executed at Oakland, California on December 13, 2010.

4
5 _____
Gregory J. Rockwell

6
7 **ORDER**

8 Good Cause appearing therefore, the Case Management Conference set for December 21,
9 2010 at 2:00 p.m. in action 10-04062CW is hereby continued to March 22, 2011 at 2:00 p.m. The
10 parties shall file a joint case management conference statement no later than March 15, 2011.

11 Dated: 12/16/2010

12 _____
13 
14 CLAUDIA WILKEN
15 United States District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE BY ELECTRONIC SERVICE

I, the undersigned, declare as follows:

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

On the date indicated below, at the above-referenced business location, I served the **DECLARATION AND EX PARTE APPLICATION TO CONTINUE CASE MANAGEMENT CONFERENCE AND ORDER** on the below-named party and caused said document to be transmitted using ECF as specified by General Order No. 45 to the following party:

Sanford M. Cipinko, Esq.
scipinko@cipinkolaw.com
Jeremy Cloyd, Esq.
jcloyd@cipinkolaw.com
Law Offices of Sanford M. Cipinko
55 Francisco St., Suite 403
San Francisco, CA 94133
Tel: (415) 693-9905
Fax: (415) 693-9904

Attorneys for Plaintiff GIANNI PASSAKOS

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on December 13, 2010.

Candace Hankins

26525\525454